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February 14, 2005

MR1111-1211

Examiner S. T. Nguyen
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Return of Official Action

Dear Examiner Nguyen:

Our law office received an Official Action which purported to be for Serial No. 10/736,516. We had not responded to the first Official Action and then noticed on the second page that the Office Action Summary is directed to Serial No. 09/946,156. Apparently there was some type of mix-up at the USPTO and two serial numbers were somewhat interchanged. We are simply returning the Official Action to you for your correction.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE

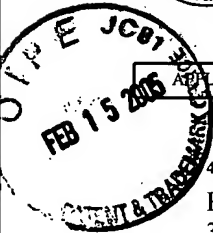
Morton J. Rosenberg
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MJR/la
Enclosures



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
0736,516	12/17/2003	Wen-Chien Chen	MR1111-1121	4323

4586 7590 12/27/2004

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

EXAMINER

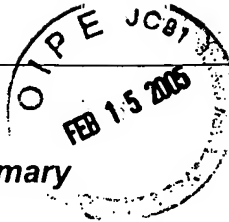
NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

09/946,156

Applicant(s)

NESS, WILLIAM VAN

Examiner

Bethany L. Griles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 17, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) 14, 16 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim 21 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/1/04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-13, 15, 17, 18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrisin et al. US6467428.

Regarding claims 1, 2, and 20 Andrisin et al. disclose a pet waterer comprising a tray 20 for holding a fluid and extending upwardly from said tray, a container 41 for dispensing fluid to said tray, said container comprising a base 18 and one or more sidewalls (figure 5) and having a top edge, said top edge forming an opening in said container 12 having a removable lid thereon the lid having an orifice (figure 5).

Regarding claims 3-6, Andrisin et al. disclose the base 18 has an interior base surface and the lid has an interior lid surface and the distance from the top edge of the sidewall is less than one half the distance from the interior base to interior lid surface (figure 5), and as these features are inherent to any container structure with a base and opening in the top of the structure.

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Regarding claim 7, Andrisin et al. disclose there is a "fluid to air" seal (col 3, lines 40-65).

Regarding claims 8 and 9, Andrisin et al. disclose a threaded neck (col 3, line 46).

Regarding claims 10 and 17 Andrisin et al. disclose a valve means to prevent leakage of water 14.

Regarding claims 11, 12, and 13, 15, 18 Andrisin et al. disclose a stem 60 with a post 42 extending from the orifice 51 which has a ring (col 3, lines 40-55).

Allowable Subject Matter

Claims 14, 16 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davidian et al. US6257288 ; Olive US6739284 ; Lorenzanna et al. US6119628; Newman US5730082; Raines US4281624.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

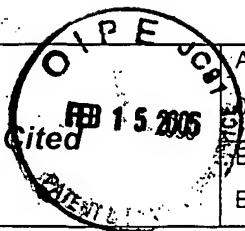
Bethany L. Griles
Examiner
Art Unit 3643

blg



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600

Notice of References Cited



Application/Control No.

09/946,156

Applicant(s)/Patent Under
Reexamination
NESS, WILLIAM VAN

Examiner

Bethany L. Griles

Art Unit

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Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-4,281,624	08-1981	Raines, Raymond	119/52.1
	B	US-5,730,082	03-1998	Newman, John Anthony	119/51.5
	C	US-6,119,628	09-2000	Lorenzana et al.	119/77
	D	US-6,739,284	05-2004	Olive, Daniel R.	119/74
	E	US-6,257,288	07-2001	Davidian et al.	141/324
	F	US-6,467,428	10-2002	Andrisin et al.	119/51.5
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.